



Korea, Republic of

Country Reports on Human Rights Practices - [2004](#)

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The Republic of Korea (Korea) is a constitutional democracy governed by a president and a unicameral legislature. Citizens regularly choose their representatives in free and fair multiparty elections. In December 2002, President Roh Moo-hyun was elected to a 5-year term of office. On March 12, the National Assembly impeached the President over campaign irregularities. Following the impeachment vote, in accordance with the Constitution, the Prime Minister assumed the duties of President. In April, in a free and fair election, President Roh's Uri Party obtained a majority 151 of 299 National Assembly seats. The Constitutional Court reinstated the President shortly after the April election. The judiciary is generally independent.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS), the National Police Administration (NPA), and the Defense Security Command (DSC). The NIS and the DSC are legally barred from involvement in domestic politics, although the NIS is authorized to investigate organizations believed to support the Government of the Democratic People's Republic of Korea (North Korea). Some members of the police committed occasional human rights abuses.

The country has an estimated per capita income of \$13,000 for its estimated 48.3 million persons. In December, unemployment was 3.6 percent, and the rate of inflation was also 3.6 percent. With an estimated growth rate of 4.5 to 4.7 percent, the economy depended on key exports including electronics, automobiles, chemicals, ships, and steel.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police and prison personnel at times physically and verbally abused detainees, although such abuses have declined in recent years. The National Security Law (NSL) curtailed free speech and press, peaceful assembly and association, and free travel. Domestic violence, rape, and child abuse remained serious problems. Women and minorities continued to face legal and societal discrimination. The country was a country of origin, transit, and destination for trafficking in persons. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada, as well as to other Western countries and Japan. The Government implemented strict laws to curb prostitution and human trafficking and to aid trafficking victims. Many public sector employees did not enjoy the right of association.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

The Presidential Truth Commission on Suspicious Deaths continued to investigate and redress cases of government-sanctioned torture and killing of pro-democracy activists under the military regimes of the past. Since its inception in 2000, the Commission has reviewed 85 cases and confirmed 30 cases of suspicious deaths.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Penal Code prohibits mistreatment of suspects, and officials generally observed this prohibition in practice. The Government ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by the authorities of those in custody continued to decline. However, some nongovernmental organizations (NGOs) alleged that police sometimes abused persons in custody. During the year, there were 26 cases of guards allegedly using excessive force. In some of these cases, the guards were accused of using improper restraints on prisoners. The Ministry of Justice stated that these allegations were all

investigated and found to be without merit. In recent years, under the National Public Service Law and criminal law, a number of police and security officials accused of abuse or harassment have been punished or disciplined through demotion, pay cuts, and dismissal. During the year, no police officials were charged under criminal law for abuses committed while on duty; however, as of July, police were disciplined pursuant to administrative procedures 632 times.

During the year, there were occasions when demonstrators used violent tactics; however, unlike in previous years there were no reports that police used excessive force.

The Government continued to investigate past abuses. By year's end, the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established to review cases in which political activists may have been tortured, had reviewed 8,182 cases since 2000 and determined that compensation was due in 499 of them.

Prison conditions generally met international standards, and the Government continued to upgrade penal facilities. By year's end, the Government began operating two new facilities to ease overcrowding, implemented new reception systems, and upgraded its information systems. It also implemented a new vocational training program, with special programs for women and persons with disabilities.

A new law outlawed consecutive solitary confinement and reduced the maximum period of solitary confinement from 2 months to 1 month. The new law also abolished the use of leather belts to bind the upper body of prisoners. Nevertheless, the NGO Asian Legal Resource Center (ALRC), in a report to the U.N. Commission on Human Rights, criticized the conditions of detention in disciplinary cells, found the guidelines for determining the period of solitary confinement too ambiguous, and objected to the continued use of long chains and facemasks to discipline prisoners. The ALRC alleged that the padded helmet-style facemasks were used to punish prisoners; however, the authorities stated that the masks were used to prevent violent prisoners from harming themselves or others.

Inmates had access to reading materials, telephones, and television broadcasts. Education in computers and foreign languages, occupational training programs, and an Inmate Employment Center helped inmates prepare to resume normal lives. Most prisoners were allowed to receive up to five visitors four to six times per month. Some prisoners were allowed unlimited visits. Model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors and were exempt from mail censorship. Some were eligible for overnight leave. Pregnant inmates received special treatment, including supplementary food, for the full term of their pregnancies and were allowed to live with their babies for up to 18 months. Pregnant inmates also received prenatal care for the full term of their pregnancies. Female inmates were not searched by male prison guards without the prior consent of the prison warden, and a female guard was present during such searches.

Female prisoners were segregated from male prisoners, and juveniles were segregated from adults. Pretrial detainees were separated from convicted prisoners.

The Government permitted visits by independent human rights observers. The National Human Rights Commission monitored prison conditions through a prisoner petition system, in which prisoners could submit suggestions through a petition box in each prison. The Commission also conducted investigations and studies on medical equipment and facilities in prisons, provision of medical services, and conditions in military prisons. Human rights NGOs are allowed to visit prisons by appointment and to submit recommendations to prison authorities. The International Committee of the Red Cross has the right to visit prisons; however, it does not maintain a presence in the country.

d. Arbitrary Arrest or Detention

Laws regarding arrest and detention are vague, and prosecutors had wide latitude. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to 7 years of anyone who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an anti-state organization." The legal standard for what constitutes "endangering the security of the State" is vague. Thus, persons have been arrested for what appeared to be the peaceful expression of views that the Government considered pro-North Korean or anti-state. In September, the Seoul High Court upheld the conviction of Min Gyeong-woo, an executive member of the Pan-Korean Alliance for Reunification, for notifying the Alliance's North Korean headquarters about the activities of student movements in South Korea, praising the North Korean political system, and possessing "anti-State materials" such as pro-North Korea books and documents. Between January 2003 and July 2003, 43 persons were arrested for violating the NSL, and 9 persons remained in custody as of year's end. One high-profile case was that of Professor Song Du-yul, a longtime resident of Germany convicted of supporting the North Korean regime. He was sentenced to 7 years' imprisonment, but was released in July (see Section 2.d.).

Because of the vagueness of the NSL and the invocation of classified security threat information regarding the Korean Peninsula, the Government is relieved of the burden of proof that any particular speech or action in fact threatens the nation's security.

The U.N. Human Rights Committee has termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights." In October, the ruling party submitted a bill to the National Assembly that, if

passed, would abolish the NSL. However, due to a lack of consensus, National Assembly action on the NSL was postponed until 2005.

The NPA is under the Ministry of Government Administration and Home Affairs. The approximately 93,000 member force has a national headquarters in Seoul, 5 special agencies, including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The NPA was considered well disciplined, and corruption and impunity were not major problems.

The Criminal Code requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after the suspect is apprehended, or, if a court is not located in the same county, within 72 hours. Police may detain suspects who appear voluntarily for questioning for up to 6 hours, but must notify the suspects' families. The police generally respected these requirements.

Authorities normally must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances. Consequently, detained suspects were a relatively small percentage of the total prison population.

The Constitution provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

Typically, on several occasions during the year, the Government grants special pardons or reinstatements of civil rights to persons, including some imprisoned for violations of the NSL or for engaging in violence during labor demonstrations. In May, the Government pardoned 1,489 prisoners.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. Of the nine justices on the Constitutional Court, three are appointed by the President, three are elected by the National Assembly, and three are designated by the chief justice of the Supreme Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The Prosecutor's Office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality in recent years.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the Constitutional Court.

The Constitution provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. Although the Constitution prohibits double jeopardy, the courts have interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime. However, the prosecution can appeal a not guilty verdict or a sentence it considers excessively lenient; thus, a suspect may in fact be tried more than once for the same crime. When a person is detained, the initial trial must be completed within 6 months of arrest. These rights generally were observed. Trials are open to the public, but a judge may restrict attendance if he believed spectators might disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters are tried by the same courts. Although few convictions were overturned, appeals often resulted in reduced sentences. Death sentences are appealed automatically.

It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for exercising the rights of free speech or association, or were detained for committing acts of violence or espionage. Minganhyup, an NGO, estimates that the police arrested, tried, and convicted 189 political prisoners during the year, including 37 for violating the NSL and 55 for violating the Assembly and Demonstration Law.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, some human rights groups were concerned about possible governmental abuse of eavesdropping. According to Privacy International, some human rights groups argued that a considerable amount of illegal wiretapping, shadowing, and surveillance photography still occurred, and they asserted that the lack of an independent body to investigate whether police had employed illegal wiretaps hindered the effectiveness of the anti-wiretap law. The Anti-Wiretap lays out broad conditions under which the Government may monitor telephone calls, mail, and other forms of communication for up to 2 months in criminal investigations and 4 months in national security cases. According to the Ministry of Information and Communication, there were 917 government wiretappings

between January and June, an increase of 14.8 percent from the second half of 2003.

The Government continued to require some released prisoners to report regularly to the police under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes is legal. The Government also allows the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea. North Korean books were sold openly in a few shops.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. However, under the NSL, the Government may limit the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allowed for restrictions on peaceful dissent. Proposals to annul or substantially revise the NSL were under review in the National Assembly at year's end. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The ruling party introduced a bill that would limit the market share of any one daily newspaper to 30 percent. Under the bill, it would be illegal for the combined market share of any three newspapers to be more than 60 percent. The country's largest circulation newspapers, which would be adversely affected by this legislation, were considered pro-opposition. In addition, the party also plans to restrict the total amount of advertising that a newspaper can carry. The NGO community has expressed concern that the law would be used to control the printed press sector. The Government dropped a series of libel lawsuits filed last year against several newspapers.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage. A member of the Korean Federation of University Student Councils, an illegal group also known as "Hanchongryn," was indicted on charges of producing and distributing pro-North Korean materials.

The Government blocked violent and sexually explicit Web sites, and required site operators to rate their site as harmful or not harmful to youth. In response to a lawsuit by some who alleged the Government's actions infringed on their "right to happiness," the Seoul District Court ruled in October that it is lawful to prohibit the manufacture and distribution of pornography. On January 4, the Government's Youth Protection Committee removed homosexuality from the list of harmful materials to youth. Thus, unlike in the past, homosexual Web sites were not automatically blocked.

In November, the Government blocked access to 31 overseas-based pro-North Korean Web sites that were categorized as harmful to the public by the police and the state intelligence agency. In March, two students were arrested and charged for breaking electoral law by distributing political cartoons online.

Hanchongryn continued to maintain that police informants were posted on university campuses.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the Government generally respected these rights in practice. The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The Law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, demonstrations routinely were approved.

In October 2003, the Constitutional Court found that provisions of the law that made it a crime to hold demonstrations within 100 yards of a foreign mission were unconstitutional. In January, the National Assembly amended the law to try to meet the constitutional strictures. In March, civic organizations organized huge downtown candlelight gatherings to protest the impeachment of the President. Although the NPA stated that the rallies were illegal, the Government permitted the rallies, which were peaceful and included children and older persons.

During the year, demonstrators on several occasions used steel bars to attack police. They also sometimes used trucks to disrupt traffic.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government currently provides no exemption or alternative civilian service for those who have a religious objection to duty in the armed forces. According to the Justice Ministry, during the year 874 persons, most of whom are Jehovah's Witnesses, were imprisoned (serving sentences or awaiting trial in prison) for refusing to serve their military duty. They were allowed to conduct their own religious services in prison.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Most citizens could move freely throughout the country; however, police had discretion to restrict the movements of some former prisoners. Foreign travel generally was unrestricted; however, the Government must approve travel to North Korea. To obtain approval, potential visitors must demonstrate that their trip does not have a political purpose and is not undertaken to praise North Korea or criticize the Government. During the year, the Government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. However, travelers to North Korea who did not receive government permission were subject to arrest upon their return. There was one such case during the year.

In the past, the Government forbade some citizens convicted of politically related crimes from returning to the country, and some citizens still faced sanctions if they chose to return. For example, dissident scholar Song Du-yul returned to the country in September 2003 after 37 years of self-imposed exile and was accused of being a member of the Korean Worker's Party (the North Korean Communist Party). In March, the Seoul Central District Court sentenced Song to 7 years in prison. Song, however, was released from jail in July and returned to Germany.

The country is a party to the 1951 Convention on the Status of Refugees and its 1967 Protocol, and the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, the Government did not routinely grant refugee or asylum status. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers. The Government also provided an alternative form of protection, a renewable, short-term permit, to those that met a broader definition of "refugee." According to the UNHCR, the frequent rotation and limited training of immigration officers and a complicated deliberation process that required 2-tiered meetings of 12 governmental and nongovernmental council members prevented timely action. Case determination normally took from 2 to 3 years. In addition, some asylum seekers were not well-counseled on their rights. There were some instances of improper actions, such as consulting the embassy of the origin country for information. Unlike in previous years, asylees were provided with competent and independent interpreters and there were no reported cases of applicants being told that they had no reason to seek asylum.

During the year, the Government continued its longstanding policy of accepting refugees from North Korea. At year's end, 1,894 former North Koreans had resettled in the country, resulting in a total population of 6,304 former North Koreans living in South Korea.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older. Elections are held by secret ballot.

The Constitution provides for the direct election of the president to a single 5-year term; the president may not stand for re-election. Representatives to the National Assembly are elected under a dual system of direct and proportional representation. Voters cast one vote for a candidate from their electoral district and a separate vote for a party; the percentage of votes for each party determines the number of that party's candidates who are elected as proportional representatives. The National Assembly members serve terms of 4 years and are not subject to a term limit. A free and fair National Assembly election was held in April. The Uri Party obtained a majority 152 of 299 National Assembly seats. The opposition Grand National Party won 121 seats.

After an investigation into illegal presidential campaign funds during the 2002 presidential election, the prosecution indicted 40 politicians, including 23 incumbent lawmakers. Most of those indicted retired from politics or were not re-elected in the April National Assembly elections. In October, the Supreme Public Prosecutors Office announced that it had indicted 46 lawmakers on charges of violating election laws during the April elections. At year's end, most of these cases were still pending. However, the court sentenced Choi Don-woong, a conservative opposition politician, to 1 year in jail; presidential confidant Ahn Hee-jeong to 1 year in jail; and Kim Young-il, also of the opposition, to 2 years of prison. Former lawmaker Lee Sang-soo was sentenced to probation.

President Roh gave prosecutors "free rein" to investigate political parties and politicians for corruption and even encouraged

investigations targeting his own party. In addition to the pending election law prosecutions, there were ongoing corruption prosecutions in several executive agencies. For example, nine officials of the Ministry of Information and Communication faced bribery charges, and military prosecutors investigated a general alleged to have illegally intervened in the promotion process. According to the Korea Independent Commission Against Corruption, the overall "cleanness level" of the Government rose to 8.46 out of a possible 10, up from 7.71 in 2003, and 6.43 in 2002. The country has a Freedom of Information Act, which went into effect in 1998.

According to new election laws applied to the April general election, 50 percent of each party's candidates on the proportional ballot had to be women while 30 percent of each party's geographical candidates had to be women. As a result, there were 39 women in the 299-seat legislature. At year's end, 3 of the 19 National Assembly committees were chaired by women. In the Supreme Court, 1 of 14 Justices was a woman, and in the Cabinet, 1 of 19 Ministers was a woman.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Through civil society support programs, the Government spent over \$12.2 million (approximately 12.7 billion won) during the year supporting 565 NGOs.

The National Human Rights Commission continued to monitor and investigate human rights violations. Members of the National Human Rights Commission were not permitted to be present at interrogations, but they were authorized to visit prisons and correctional institutions and to meet with persons who had been arrested and were in custody.

The work of the National Human Rights Commission was augmented and complemented by that of the Presidential Truth Commission on Suspicious Deaths (see Section 1.a.) and the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement (see Section 1.c).

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution and law forbid discrimination on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin color, thought or political opinion, record of any crime for which punishment has been fulfilled, sexual orientation or medical history, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women and persons with disabilities. Ethnic minorities, primarily foreign workers, were very small in number and faced both legal and societal discrimination. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the National Human Rights Commission, an independent government agency established in 2001. Between November 2001 and August, the Commission handled 9,410 cases of alleged human rights violations and 806 cases of discriminatory conduct.

Women

Violence against women remained a problem. The Prevention of Domestic Violence and Victim Protection Act defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to 6 months. Offenders may also be placed on probation or ordered to see court designated counselors. The law also requires police to respond immediately to reports of domestic violence. Between January and September, the Ministry of Justice reported 11,614 cases of domestic violence and prosecuted 1,703 cases.

Rape remained a serious problem. Between January and September, there were 5,206 reported cases of rape and 3,840 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is 3 years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.

Prostitution is illegal, but widespread. However, the Government began a crackdown on prostitution in September. At year's end, an estimated several hundred thousand women were engaged in some manner in the prostitution industry. A 2003 study found that the country's sex trade had generated up to \$22 billion (approximately 23.3 trillion won) in profits.

The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations--including, for example, relations between teachers and students, citizens and civil servants. Nevertheless, sexual harassment continued to be a problem. In June, a poll found that 18.4 percent of working women experienced sexual harassment.

The Family Law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a

woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. However, according to a Ministry of Health and Welfare report, 47.4 percent of marriages end in divorce. The Government has established some shelters for battered women and has increased the number of childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

Women were subordinate to men legally, socially, and economically. Despite the passage of equal employment opportunity legislation, few women worked as company executives, and sexual discrimination in the workplace remained a problem. According to the Korea Women's Development Institute, the average working woman earned 63 percent of what a man made in a comparable job. The Equal Employment Act has been revised to impose tougher penalties on companies found to discriminate against women in hiring and promotions. Under the law, the Presidential Commission on Women's Affairs (the precursor of the existing Ministry of Gender Equality) is granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$4,399 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) perpetuated legal barriers against women, despite a Constitutional Court ruling that such preferential hiring discriminated against women and persons with disabilities and is unconstitutional.

Women had full access to education, and social mores and attitudes were changing gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key party positions, including chairperson of the main opposition party. The military and service academies also continued to expand opportunities for women.

The Government provided an allowance of \$565 (640,000 won) per month to 128 former "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army).

Children

The Government demonstrated its commitment to children's rights and welfare through public education. The Government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. High quality health care was widely available to children.

As public awareness of the problem of child abuse continued to grow, the number of reported cases increased. The most recent figures reflect that from 2001 until 2003, 3,197 children under 12 years of age were victims of violent crimes. The Ministry of Health and Welfare established a central prevention center and 17 branch offices to provide child victims with medical aid and counseling and serve as an education resource for offenders and family members. The Ministry also established a hotline for reports of abuse. In January, the Government revised the Law on Child Welfare to impose additional punishment on habitual offenders. The Seoul metropolitan government also ran a children's counseling center that investigated reports of abuse, counseled families, and cared for runaway children.

The Youth Protection Law provides for prison terms of up to 10 years and a fine of \$8,840 (10 million won) per minor hired for owners of entertainment establishments who hire persons under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. The Juvenile Sexual Protection Act establishes a maximum sentence of 20 years' imprisonment for the sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see Section 5, Trafficking). Based on this law, the Commission publicized the names of those who had committed sex offenses against minors. During the year, personal information on 553 sex offenders was available to the public.

The traditional preference for male children continued, although it was less evident among those in their twenties and thirties. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The Government expressed concern about the widening disparity between male and female birth rates and stepped up an education campaign aimed at eradicating gender-preference abortions, which are already prohibited by law.

Trafficking in Persons

The law prohibits trafficking in persons; nevertheless, the country was a country of origin, transit, and destination. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of trafficking as well.

In September, the country implemented two new significant and sweeping laws against prostitution and human trafficking. The laws toughen penalties and provide enhanced services and protections for victims of the sex trade. Police have also launched a public awareness campaign, a victim support hotline, and a reward system for information leading to the arrest of traffickers. The

Juvenile Sexual Protection Act imposes lengthy prison terms for persons convicted of sexual crimes against minors (see Section 5, Children). The NPA and the MOJ were principally responsible for enforcing these laws. No laws specifically address sex tourism.

The country was a major transit point for alien smugglers, including traffickers of primarily Asian women for the sex trade and domestic servitude. Women from many countries, but primarily from China, were trafficked through the country to the United States and many other parts of the world. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of Chinese citizens to Western countries. In addition to trafficking by air, much transit traffic occurred in the country's territorial waterways by ship.

Women from Russia, other countries of the former Soviet Union, China, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer visas. Once in the country, employers in some instances held victims' passports. The Government has restricted issuance of certain types of entertainer visas. As of September, the number of foreign women holding entertainer visas had decreased by 50 percent since June 2003. Between January and December, police arrested 536 persons for prostitution or trafficking and prosecuted 85. The others were released because there was insufficient evidence or legal basis to prosecute. The MOJ and NPA cooperated with NGOs and foreign embassy officials in investigating and attempting to resolve various trafficking-related issues and disputes. In November, the Ministry of Justice initiated an international anti-trafficking working group to increase information sharing among affected countries. There was no credible evidence that officials were involved in trafficking.

The Government developed a network of shelters and programs to assist victims. As of November, approximately 700 Korean women were housed in 32 shelters and approximately 70 foreign women were in 2 shelters. Victims were also eligible for medical, legal, vocational, and social support services. Many of these services were provided in conjunction with NGOs.

The Government and NGOs were actively involved in an education campaign to inform the public about new anti-prostitution and anti-trafficking laws.

Persons with Disabilities

Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." The Government took measures to increase opportunities and access for persons with disabilities. Although many public facilities remained inadequate, most Seoul sidewalks were designed to alert the sight impaired, intersections had audible cross-signals, and as of June, there were 425 elevators and 1,149 wheelchair lifts in the 513-station subway system.

Firms with over 300 employees are required by law either to hire persons with disabilities or pay a fine. Nevertheless, the hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force. According to the Ministry of Labor, the sum of penalties issued to companies for failing to meet a 2 percent job quota for the disabled rose to \$112.7 million (118.4 billion won) during the year, a 13.9 percent increase from 2003.

During the year, the Ministry of Health and Welfare established a new rehabilitation center with 50 rooms, 126 welfare centers, and 230 apartments and shelters. The Ministry also provided persons with disabilities with reimbursement for medical expenses and spare rehabilitation appliances and mobile phones.

During the year, the Government also provided additional financial benefits to persons with disabilities, mainly through a new allowance and loan system and through cutting tolls on expressways. Additionally, the Government supplied vehicles, upgraded education programs, and sourced certain products and services from companies that hired persons with disabilities. During the year, groups representing persons with disabilities protested the opening of a new bullet train that did not have sufficient accommodations for the disabled.

National/Racial/Ethnic Minorities

The country is racially homogeneous, with no sizable populations of ethnic minorities. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained "foreign," thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Foreign workers continued to report difficult working conditions. Some complained of excessively aggressive police crackdowns on illegal migrants. Amerasians faced no legal discrimination, but informal discrimination was prevalent.

Other Societal Abuses and Discrimination

Complaints of age discrimination arose during the year when some major employers refused job applications from job seekers that had been looking for work for longer than 1 year. In response, the Korea Employees Federation urged employers to

eliminate age-related hiring restrictions

The country is known to have about 8,000 persons with HIV or AIDS. The AIDS Prevention Act, enacted in 1987, ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The Ministry of Labor reports no cases of sexual orientation or HIV/AIDS discrimination. However, according to a November report by a Seoul National University professor, persons with HIV/AIDS in the country suffer from severe discrimination and social isolation, even losing ties with their own families.

On February 26, Lim Tae-hoon was detained for refusing to perform armed service on the grounds of discrimination against gay, bisexual, and transsexual persons by military officials. He called for an expansion of the alternative civilian service to include gay, bisexual, and transgender conscientious objectors.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides workers, except public officials, with the right to associate freely. Since 1999, most government employees have been able to form bargaining units and negotiate with management, but have been unable to strike.

Labor law changes authorized the formation of competing unions starting in 2002, but implementation was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which includes representatives of the Government, one of two major labor federations, and management (see Section 6.b.). According to the International Confederation of Free Trade Unions (ICFTU), the consequence of a lack of competing unions is that employers can create their own management-controlled unions. All unions are required to notify the authorities when formed or dissolved.

The ratio of organized labor in the entire population of wage earners was approximately 11 percent, or 1.5 million unionists from a total of 14 million workers. The country has two national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 1,600 labor unions.

The Government recognizes a range of labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. Labor federations not formally recognized by the Labor Ministry have generally operated without government interference.

The FKTU and the KCTU were affiliated with the ICFTU. Most of the FKTU's constituent unions maintained affiliations with global union federations, as did the KCTU Metalworkers Council.

In September, the ICFTU found that parts of the labor law violated freedom of association principles, notably with regard to the absence of union rights for many public servants and the intervention by the state in international trade union affairs.

b. The Right to Organize and Bargain Collectively

The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action, and workers exercised these rights in practice. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement has been used less frequently because employers have taken extra precautions when laying off union members. A Tripartite Commission subcommittee on the protection of civil servants' basic rights exists.

Unions engaged in collective bargaining. Although government employees (except for certain blue collar public officials) are not granted the right to organize and bargain collectively, they have established public official "workplace associations," which may make recommendations, but may not engage in collective bargaining.

Under the Trade Union and Labor Relations Adjustment Act, unions must submit a request for mediation to the Labor Relations Commission before a strike. In most cases, the mediation must be completed within 10 days; in the case of essential services, within 15 days. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Strikes are prohibited for most government officials and for those who produce mainly defense goods. By law, unions in enterprises determined to be of "essential public interest"--including railways, utilities, public health, the Bank of Korea, and telecommunications--can be ordered to submit to government-ordered arbitration. However, in practice the Government rarely imposed arbitration.

Through December 15, there were 457 strikes, with major strikes taking place in the financial, health, transportation, steel, and automobile industries. During this time period, the number of workers involved in strikes increased to 183,959 persons from

131,926 persons last year. However, the number of lost working days fell to 1,160,000 days from 1,271,126 days in 2003. The strikes were generally peaceful.

In November, the Government arrested 112 persons in connection with an illegal strike organized by the Korean Government Employees Union (KGEU). The strike was illegal because the KGEU is not a legally authorized entity, and public workers do not have the right to strike.

There is no independent system of labor courts. Semi-judicial agencies such as the Central and Local Labor Relation Commissions mediate or arbitrate labor disputes based on the Trade Union and Labor Relation Adjustment Act. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." The Labor Relations Commission can decide on remedial measures in cases involving unfair labor practices and can mediate or arbitrate labor disputes in sectors deemed essential to public welfare.

Under the labor laws, persons who assist trade unions or employers in a dispute are required to register with the Ministry of Labor. Those who fail to do so face a large fine or a maximum sentence of 3 years' imprisonment.

The Government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually were given the rights enjoyed by workers in other sectors of the economy; however, foreign companies are exempt from many of these labor standards. Foreign-invested enterprises located in free economic zones are exempt from Articles 54, 57, and 71 of the Labor Standards Act, which mandate monthly leave, paid holidays, and menstruation leave for women; Article 31 of the Honorable Treatment and Support of Persons of Distinguished Services to the State Act, which gives preferential treatment to patriots, veterans, and their families; Article 24 of the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, which obligates companies with over 300 persons to recruit persons with disabilities for at least 2 percent of its workforce; Article 12 of the Employment Promotion for the Aged Act, which encourages companies to reserve 3 percent of their workforce for workers over 55 years of age; and Articles 4 and 12 of the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation, which restrict large companies from participating in certain business categories. Labor organizations are permitted in EPZs.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and it was not known to occur. The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures.

Some foreign workers alleged difficult working conditions and unduly harsh treatment by police during crackdowns on illegal labor.

d. Prohibition of Child Labor and Minimum Age for Employment

The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. These regulations were enforced through regular inspections and child labor was not considered a problem. A civic group filed a lawsuit during the year that alleged several fast food franchises violated the labor law by not paying minors monthly wages and forcing them to work illegal nightshifts.

e. Acceptable Conditions of Work

The minimum wage is reviewed annually. As of September, the minimum wage was \$2.21 (2,510 won) per hour, \$17.71 (20,080 won) per day, or \$502.25 (567,260 won) per month. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. However, the money an average blue-collar worker took home in overtime and bonuses significantly raised the total compensation package. According to the Ministry of Health and Welfare, 1.4 million persons (2.9 percent of the population) lived below the poverty level. Another 3.2 million persons were classified as living in "potential extreme poverty."

As of July, the 5-day workweek system was adopted for employees of large conglomerates, publicly-owned companies, banks, and insurance companies with 1,000 registered workers or more, reducing working hours to 40 hours a week. Companies with more than 300 employees are scheduled to adopt the shortened workweek by July 2005, those with over 100 by July 2006, those with over 50 by July 2007 and those with over 20 by July 2008. Labor laws mandate a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Unions claimed that the Government did not enforce adequately the maximum workweek provisions at small companies. The amended Labor Standards Law also provides for a

higher wage for overtime. However, the overtime premium is scheduled to be reduced from 150 percent of the base wage to 125 percent concurrent with the reduction in weekly working hours.

Foreign workers, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, often faced difficult working conditions and sometimes complained of unduly aggressive police crackdowns. In July, the Government initiated a crackdown on illegal foreign labor. By December, the Government had expelled approximately 20,000 workers and encouraged approximately 24,000 to leave voluntarily. Some foreign workers also complained that they were forced to pay into the pension system, but were unable to get their money back.

In July, the Government implemented a new work permit system designed to increase protections for foreign workers while easing the labor shortage in manufacturing businesses. Under the new system, permit holders may work in certain industries only and have limited job mobility, but generally enjoy the same rights and privileges, including the right to organize, enjoyed by domestic workers. The Industrial Trainee System, an often-criticized system through which foreign workers may work for 2 years following 1 year of training, is still in place.

Foreign workers working as language teachers continued to complain that the language institutes for whom they work frequently violated employment contracts.

At the beginning of the year, contract and other "nonregular" workers accounted for 49 percent of the workforce. In general, nonregular workers performed the same work as regular workers, but received only 61.3 percent of the wages. Further, most were ineligible for national health and unemployment insurance and other benefits. The Government announced plans to grant annual salaries in place of hourly pay to 100,000 of the 234,000 nonregular workers in the public sector, and full-time status to 30,000 by year's end. This plan triggered protests from excluded nonregular workers as well as the trade unions.

The Korea Occupational Safety and Health Agency is responsible for implementing industrial accident prevention activities. The Government set health and safety standards, but the accident rate was high by international standards. By the end of June, there were 43,278 casualties related to industrial accidents, including 1,393 fatalities. These figures represent a slight improvement from the same period in 2003, when approximately eight workers died each day. The Government credits prevention activities carried out by the Ministry of Labor, including the imposition of sanctions on work places having a high rate of accidents. According to the Korea Occupational Safety and Health Act, an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident.